



Department of Banking and Finance

2990 Brandywine Road, Suite 200

Atlanta, Georgia 30341-5565

770-986-1633

www.gadbf.org

Sonny Perdue
Governor

David G. Sorrell
Commissioner

November 18, 2003

**Via U.S. Certified Return Receipt #7002 3150 0003 8020 5646
and Facsimile 770-418-9394**

Directors, Officers and Employees
"First Mutual Savings & Credit Union"
761 Peachtree Road, Suite 903
Atlanta, Georgia 30088-2381

RE: Order to Cease and Desist

Dear Directors, Officers and Employees:

Since we did not hear from you by Monday, November 17, 2003, we are enclosing the Order to Cease and Desist (Order) as referenced in our letter of November 7, 2003. The Order is effective November 18, 2003.

Sincerely,

A handwritten signature in cursive script that reads "Grace M. Lurry (by GAB)".

Grace M. Lurry, CFE, CEM
Deputy Commissioner for Supervision
Phone: (770) 986-1646
Fax: (770) 986-1654

mj

Enclosure

cc: National Credit Union Administration
Credit Union National Association
Georgia Credit Union Affiliates
Federal Deposit Insurance Corporation
Federal Reserve Board
Georgia Secretary of State
Ms. Ellen Cameron
Georgia Office of Attorney General
Mr. Bo Fears



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FINANCIAL INSTITUTION ORDER TO CEASE AND DESIST

The Department of Banking and Finance of the State of Georgia ("Department") has the authority pursuant to O.C.G.A. Section 7-1-91(d) and O.C.G.A. Section 7-1-5 to issue a Cease and Desist Order to any financial institution which has violated any law of this state or any order or regulation of the Department, to any financial institution which is conducting business in an unsafe or unauthorized manner, or to any person or corporation conducting business as a financial institution without authority under Chapter 1 of Title 7 of the Official Code of Georgia. On November 7, 2003, this Department sent a letter to the Directors, Officers and Employees of "First Mutual Savings & Credit Union" ("First Mutual"), informing First Mutual of these concerns and requesting immediate action. First Mutual has attempted to provide mortgage lending services to at least one consumer, based on correspondence received by this Department, and has provided a Georgia address to customers and potential customers.

First Mutual is in violation of Georgia Statute and conducting a business in an unauthorized manner as follows:

- First Mutual is a company which, according to documentation obtained by the Georgia Department of Banking and Finance, is providing financial services from at least one address in Georgia – 761 Peachtree Road, Suite 903, Atlanta, GA 30088-2381. This documentation indicates that First Mutual may be conducting a banking or credit union business in Georgia without authority, which is in violation of O.C.G.A. Section 7-1-241.
- First Mutual, by use of the words "Credit Union," purports to be either a state chartered credit union, a federally chartered credit union, or a credit union chartered by a foreign country. The Department has found no evidence that First Mutual is either state or federally chartered. If First Mutual is a credit union chartered and located in a foreign country this credit union has not been authorized pursuant to O.C.G.A. Section 7-1-713 to conduct business in Georgia as an international agency or representative office.
- First Mutual is not authorized pursuant to O.C.G.A. Section 7-1-242 to act lawfully as a corporate fiduciary in the State of Georgia or authorized to conduct a

banking business in this state. First Mutual does not meet one of the corporate fiduciary exceptions contained under O.C.G.A. Section 7-1-242.

Therefore the Georgia Department of Banking and Finance, pursuant to O.C.G.A. Section 7-1-91 and 7-1-5, **does hereby Order "First Mutual Savings & Credit Union", its successors and assigns and the officers, employees and directors thereof, to Cease and Desist violations of Georgia Law and the conduct of business in an unsafe or unauthorized manner and to take the following actions:**

- 1) First Mutual shall immediately cease indicating in any internet website, marketing materials, signage, correspondence, or legal documentation that could reach Georgia consumers that it is a credit union, and that it is authorized to do business in Georgia.
- 2) First Mutual shall cease using the name "Credit Union", "Bank", "Banking Company", "Banker", "Banking House" or any similar terminology in the above materials, in reference to activities conducted in the State of Georgia.
- 3) First Mutual shall not conduct a banking business unless it demonstrates that it is authorized to conduct a banking business in accordance with the provisions of federal or state law. O.C.G.A. Section 7-1-241 specifies that only a state chartered bank, a national bank, a federally chartered thrift, credit union or other agency otherwise authorized by Georgia Law may do a banking business in this state.
- 4) First Mutual shall not provide financial products or services to the citizens of this State by any delivery system, to include the internet, or other electronic access to financial products or services or alternative methods of delivery which differ from geographically based banking without the authorization of the Georgia Department of Banking and Finance, pursuant to O.C.G.A. Section 7-1-241(c).
- 5) If First Mutual is a credit union chartered or licensed in a foreign country, this foreign corporation shall not transact a banking business or maintain an office in this State for carrying on such business or any part thereof without the authorization of this activity by the Department in accordance with Section 7-1-713 of the Code of Georgia.
- 6) **Representatives of First Mutual shall respond to the Department by November 22, 2003, indicating the actions taken regarding compliance with the provisions of this Order. The Department may take further legal action through the State Attorney General as authorized by law.**

The above provisions are effective on the date of issuance of this Order.

MORTGAGE ORDER TO CEASE AND DESIST

Pursuant to Section 7-1-1018 of the Georgia Residential Mortgage Act, the Georgia Department of Banking and Finance hereby orders "First Mutual Savings & Credit Union" to cease and desist from engaging in mortgage brokerage activities without a valid license or pursuant to an applicable exemption in violation of O.C.G.A. Section 7-1-1002.

This part of the Order shall be final thirty days from the date of issuance, per O.C.G.A. Section 7-1-1018. However, if "First Mutual Savings & Credit Union" provides the Department with evidence of a valid license or applicable exemption within this thirty-day period, the Department may rescind this mortgage part of the Order. Should you have any questions concerning mortgage activities, please contact Carol J. Grafman, Assistant Attorney, at (770) 986-1648.

November 18, 2003

Date



David G. Sorrell, Commissioner
State of Georgia Department of Banking and Finance